APPENDIX A — ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT DECIDED NOVEMBER 1, 2002

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
Chicago, Illinois 60604

Submitted September 18, 2002
Decided November 1, 2002

Before

Hon. RICHARD A. POSNER, *Circuit Judge*

Hon. JOHN L. COFFEY, *Circuit Judge*

Hon. DIANE P. WOOD, *Circuit Judge*

No. 02-1544

LEO WANTA and
NEW REPUBLIC/USA FINANCIAL GROUP, LTD.,

Petitioners-Appellants,

v.

RICHARD CHANDLER, *et al.*,

Respondents-Appellees.

Appeal from the United States District Court for the
Western District of Wisconsin

Appendix A

No. 01-C-0601-C

Barbara B. Crabb, *Chief Judge*

ORDER

Leo Wanta has filed a notice of appeal from the denial of a petition under 28 U.S.C. § 2254, which we will construe as an application for a certificate of appealability. Before this court is Wanta's motion for "corrective action," arguing that the appeal can proceed without the issuance of a certificate of appealability because the district court erroneously construed his civil lawsuit as a § 2254 petition. We conclude that the district court properly construed the majority of Wanta's claims as falling under § 2254 because they attack the validity of Wanta's conviction. Because we agree with the district court that those claims are untimely, we DENY Wanta's request for a certificate of appealability.

As for Wanta's claim regarding the seizure of various documents and any claims on behalf of New Republic, we summarily AFFIRM the district court's dismissal.

APPENDIX B — ORDER OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN DATED AND FILED FEBRUARY 5, 2002

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN

DPP #-04362 & 12535,

01-C-0601-C

AMBASSADOR LEO WANTA, Somalia Ambassador to Canada and Switzerland, aka Lee E. Wanta, aka Leo E. Wanta; and NEW REPUBLIC/USA FINANCIAL GROUP, LTD., GES m.b.h. (Austria),

Petitioners,

v.

SECRETARY RICHARD G. CHANDLER, Wisconsin Department of Revenue; JAMES E. DOYLE, Attorney General State of Wisconsin; GRANT C. JOHNSON, United States Attorney Western District of Wisconsin; JOHN DOUGLAS HAAG, Former Assistant Attorney General State of Wisconsin; JACK C. VOIGHT Wisconsin State Treasurer; JUDITH COLEMAN Clerk of the Dane County Circuit Court, State of Wisconsin; ATTORNEY GENERAL JOHN ASHCROFT Attorney General of the United States of America; and PAUL H. O'NEILL, Secretary of the Treasury, United States of America,

Respondents.

Appendix B

ORDER

This is an action labeled "Petition for Declaratory and/or Injunctive Relief and an Action in the Nature of a Petition for Writ of Mandamus," in which petitioners are seeking to overturn a jury verdict in the Wisconsin state courts finding plaintiff Leo Wanta guilty of two counts of filing false income tax returns and four counts of concealing property upon which levy was authorized. In a rambling, 22-page complaint, petitioners detail a plethora of reasons why they believe the state of Wisconsin acted improperly in charging petitioner Wanta with income tax violations, in convicting him, in attempting to levy upon certain property and in trying to collect taxes arising out of business dealings of Falls Vending and related property. Among other things, petitioners argue that the state refused to recognize Wanta's diplomatic immunity as an ambassador, his close involvement with the United States government in undertaking sensitive intelligence operations directed at persons such as Marc Rich and Osama Bin Laden and the requirements of his job that he live overseas.

In addition to an order overturning petitioner Wanta's conviction, petitioners want to prevent state authorities from collecting sales taxes or other taxes allegedly due from Falls Vending and to have this court initiate investigations into certain documents that were made part of the state court record at trial or for sentencing purposes. Also, it appears from some of the briefing, although not from the complaint, that petitioners want to obtain certain documents that they allege are in the possession of the Dane County clerk of court, respondent Judith Coleman.

Appendix B

Petitioners do not explain what stake, if any, petitioner New Republic/USA Financial Group has in correcting petitioner Wanta's conviction or what claims they might have against respondents United States Attorney Grant C. Johnson, Attorney General John Ashcroft and Treasury Secretary Paul H. O'Neill. (It appears that petitioners believe that these respondents might have access to certain documents and information that would prove petitioners' allegations about Wanta's supposed intelligence gathering activities.) The petition will be dismissed as to these three federal respondents for petitioners' failure to state a claim against them.

Petitioners are represented by counsel, who should know that the only way that a state court conviction can be challenged in a federal court is through a petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2254 and filed within one year of the date on which the conviction has become final, § 2244(d)(1). This time period may be extended if one of a limited number of exceptions applies. *Id.* Petitioner Leo Wanta was convicted in 1995; his conviction was affirmed by the state court of appeals on February 4, 1999, and his petition for review was denied by the state supreme court on April 27, 1999. He did not file his petition in this case until October 22, 2001, far more than one year after his conviction had become final, even if a period of ninety days is allowed for the filing of a petition for certiorari to the United States Supreme Court. *See Gendron v. United States*, 154 F.3d 672, 674 & n.2 (7th Cir. 1998) (leaving open question whether prisoner who filed for leave to appeal to state supreme court would have time for filing certiorari with the United States Supreme Court included in his "direct

review"). Petitioners do not suggest that any of the exceptions set out in § 2244(d)(1) apply to their challenge so as to give them additional time for filing. This petition is untimely and must be dismissed on that basis.

Although petitioners raise matters not ordinarily raised in petitions for writs of habeas corpus brought pursuant to § 2254, such as their request for an investigation and for injunction of any attempts by the state to collect taxes based on profits earned at Falls Vending, these matters arise directly out of the charges brought against petitioner Wanta and should have been raised in connection with his trial and appeal. It is too late to raise them now. Moreover, this court has no authority to initiate an investigation into a matter that was before the state court or to enjoin the collection of state taxes that a state court has held are owed by petitioner Wanta. 28 U.S.C. § 1341.

As to petitioners' effort to obtain documents from the state courts, petitioners have not suggested any basis on which this court could order the state courts to search for documents or return them to petitioners. Therefore, the petition will be dismissed as to respondent Judith Coleman.

Appendix B

ORDER

IT IS ORDERED that the Petition for Declaratory and/or Injunctive Relief and an action in the Nature of a Petition for Writ of Mandamus filed by petitioners Ambassador Leo Wanta and New Republic/USA Financial Group, Ltd. is construed as a challenge to petitioner Wanta's state court conviction that can be brought only as a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 and is DENIED as untimely because it was not filed within one year of the date on which petitioner's conviction became final as required under § 2254(d). To the extent that petitioners seek any relief that would not be encompassed in a petition for a writ of habeas corpus, those claims are denied for petitioners' failure to show any basis on which the claims could be granted. Accordingly, the petition is DISMISSED as to respondents Grant C. Johnson, Attorney General John Ashcroft, Paul H. O'Neill and Judith Coleman for petitioners' failure to state any claims against these respondents. The clerk of court is directed to enter judgment for all respondents and close this case. Entered this 31st day of January, 2002.

BY THE COURT:

s/ Barbara B. Crabb
BARBARA B. CRABB
District Judge

APPENDIX C — ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT DENYING THE MOTION FOR RECONSIDERATION DECIDED NOVEMBER 25, 2002

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
Chicago, Illinois 60604

SUBMITTED NOVEMBER 22, 2002
DECIDED NOVEMBER 25, 2002

BEFORE
HON. RICHARD A. POSNER, CIRCUIT JUDGE
HON. JOHN L. COFFEY, CIRCUIT JUDGE
HON. DIANE P. WOOD, CIRCUIT JUDGE

No. 02-1544

Motion for Reconsideration

LEO WANTA AND NEW REPUBLIC/USA FINANCIAL GROUP, LTD.,

Petitioner-Appellants,

v.

RICHARD G. CHANDLER, ET AL.,

Respondents-Appellees.

Appendix C

ORDER

Leo Wanta and New Republic/USA Financial Group, Ltd., filed a motion for reconsideration of this court's November 1, 2002, order denying their request for a certificate of appealability and summarily affirming the district court judgment on their remaining claims. The motion for reconsideration is DENIED.

No signature and no stamp